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The CIA Makes a Comeback

By JACK C. LANDAU

After six years on the political defensive, the Central Intelligence Agency and its allies in the intelligence community have launched a successful counteroffensive to restrict public information about and oversight of intelligence activities.

With strong support from the Reagan Administration and conservatives in Congress, the intelligence community has won three political victories in the past month:

—A new executive order that keeps secret a massive collection of foreign-policy and defense documents that previously had been available for inspection by scholars and journalists.

—The firing by President Reagan of the U.S. attorney in San Diego after he confirmed to a newspaper that the Justice Department was investigating a former Mexican official, who was also a CIA intelligence source, for his involvement in a multimillion-dollar California car-theft ring.

—Passage by Congress of the agent-identities bill, which makes it a crime for a news organization to identify an intelligence agent or source, even if the agent or source is violating federal or state law, agency regulations or presidential policy.

The CIA believes that it is quickly restoring the legal protections that it had before the Watergate scandals and the Vietnam War.

After the Watergate and Vietnam disclosures of the CIA's misdeeds and misinformation, the agency lost a great deal of popular and political support, especially in Congress and with the Ford and Carter Administrations.

Congress was so upset by the disclosures of the illegal CIA covert activities in this country and abroad that it established a complex oversight structure requiring the CIA director to report to 14 congressional subcommittees on intelligence activities. Both the former CIA director, Stansfield Turner, and the current director, William Casey, have complained that it is difficult to keep intelligence secrets and sources under wraps with so much exposure on Capitol Hill.

The CIA has also complained about the federal Freedom of Information Act and the declassifying of foreign documents, which started during the Eisenhower Administration.

Every President for the past 20 years who has studied access to foreign document collections has concluded that the government, particularly the intelligence agencies, classifies too much—or insists on keeping secret information that poses no substantial danger to national security.

A series of presidential study groups have devised systems to release an increasing amount of information. President Jimmy Carter signed an executive order that allowed documents to be released if they posed no "identifiable danger" to national security. He also set up a system whereby foreign-policy documents were released automatically after 5 to 30 years, depending on the level of classification. Under this system, journalists discovered that CIA agents were conducting illegal break-ins in this country and were illegally opening mail.

Angered by these disclosures and by revelations about covert actions abroad, the agency argued that the system of making information public was endangering its sources.

However, the CIA had a difficult time proving its case, because it had never lost a suit in court where it was required to disclose classified information nor had any court ever ordered the identity of a CIA source disclosed.

The CIA then turned to the political process, and through a series of secret briefings persuaded the new Administration and Congress that access to foreign-affairs intelligence and defense-planning information had to be restricted.

The result in Congress was the agent-identities bill. The result in the White House, was the new executive order by Reagan eliminating the automatic time-release of foreign-affairs documents, and allowing such information to be kept secret forever if disclosure would pose *any*—rather than "identifiable"—damage to America's national security.

But the strength of the intelligence agency's persuasion is perhaps best illustrated by the San Diego incident. There, a former head of Mexico's federal security agency, who also was a CIA source, was being investigated for his alleged involvement in a ring that stole cars in California for resale in Mexico.

The Justice Department urged the U.S.

attorney, William Kennedy, to drop the investigation—in effect, engage in a cover-up—because it feared that an indictment would disclose that the official was an intelligence source.

The U.S. attorney believed that he was under legal and ethical obligation to continue the investigation on the theory that CIA sources should not have immunity in breaking U.S. laws.

As a result, the U.S. attorney was fired. And, as a San Diego editor said to a Washington reporter, "Under the CIA's theory, a source could commit murder and get away with it."

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